

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK,

Plaintiff,

v.

ALEJANDRO MAYORKAS, *in his official capacity
as Secretary of Homeland Security*, et al.,

Defendants.

Case No. 20 Civ. 1127 (JMF)

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS, on February 10, 2020, the State of New York (“New York”) filed a complaint challenging defendants’ (the “government’s”) decision to prohibit residents of New York from applying or re-applying for membership in U.S. Customs and Border Protection’s (“CBP’s”) Trusted Traveler Programs (“TTPs”);

WHEREAS, on July 23, 2020, the government rescinded its decision and, by letter submitted the same day, the government informed the Court of “inaccurate or misleading statements” in its prior submissions, withdrew its motion to dismiss New York’s constitutional claims, and withdrew its motion for summary judgment on New York’s remaining claims;

WHEREAS, on September 4, 2020, the government submitted a report and supplemental declarations further explaining the circumstances in which the “inaccurate or misleading statements” had come to be included in its prior submissions;

WHEREAS, by order dated October 13, 2020, the Court granted New York’s motion for summary judgment and vacated DHS’s decision to prohibit New York residents from applying or re-applying for membership in the TTPs;

WHEREAS, by order dated January 19, 2021, the Court denied New York's motion for further injunctive relief;

WHEREAS, by order dated July 8, 2021, the Court granted in part and denied in part the government's motion to seal portions of its report and supplemental declarations and declined, on its own initiative, to sanction the government pursuant to its inherent authority;

WHEREAS, New York and the government have met and conferred concerning New York's anticipated motion for attorney's fees and litigation costs;

WHEREAS, New York and the government wish to avoid any further litigation and to settle and compromise fully any and all claims and issues that have been raised, or could have been raised, in this action;

NOW, THEREFORE, the parties stipulate and agree as follows:

1. Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, this action is hereby dismissed with prejudice and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order (the "Stipulation"), provided that the Court shall retain jurisdiction over any issues that might arise relating to the enforcement of this Stipulation.

2. The government shall pay to New York the sum of one hundred and fifteen thousand dollars (\$115,000.00) within sixty (60) days of the Court's approval of this stipulation. This payment shall constitute full and final satisfaction of any and all claims by New York arising from this litigation, including claims for attorney's fees, litigation costs, and/or any monetary and non-monetary sanctions, and is inclusive of any interest. Payment shall be made by electronic funds transfer, and counsel for New York will provide the necessary information for the government to effectuate the transfer.

3. This Stipulation does not constitute an admission of liability or fault on the part of the government and is entered into by both parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

4. This Stipulation contains the entire agreement between the parties, and no statement, representation, promise, or agreement, oral or otherwise, between the parties or their counsel that is not included herein shall have any force or effect.

5. The signatures of counsel for the parties may be indicated with an “/s/”.

6. This Stipulation is subject to the approval of the Court. If the Court declines to approve this Stipulation, it shall be null and void, with no force or effect.

Dated: New York, New York
September 16, 2021

LETITIA JAMES
Attorney General of the State of New York

By: /s/ Daniela L. Nogueira
DANIELA L. NOGUEIRA
New York State Office of the
Attorney General
28 Liberty Street
New York, New York 10005
Tel: (212) 416-6544
Email: daniela.nogueira@ag.ny.gov


Dated: New York, New York
September 16, 2021

AUDREY STRAUSS
United States Attorney

By: /s/ Zachary Bannon
ZACHARY BANNON
CHRISTOPHER CONNOLLY
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2728
Email: zachary.bannon@usdoj.gov
christopher.connolly@usdoj.gov

SO ORDERED:

Dated: New York, New York
September 17, 2021



THE HONORABLE JESSE M. FURMAN
United States District Judge